

Internal Revenue Service
Tax Exempt and Government Entities Division
Exempt Organizations: Examinations
1100 Commerce Street
Dallas, Texas, 75252

Department of the Treasury

501-07.00

Release Number: **201323033**
Release Date: 6/7/2013

Date: November 6, 2012

Taxpayer Identification Number:
Form:
Tax Year(s) Ended:
Person to Contact/ID Number:
Contact Numbers:
Telephone:
Fax:

ORG
ADDRESS

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter revoking your exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Nanette M. Downing
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination
Envelope

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Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer ORG		Year/Period Ended 20XX06

LEGEND

ORG - Organization name XX - Date Address - address City - city
State - state CO-1 & CO-2 - 1st & 2nd COMPANIES

Issue:

Whether ORG qualifies for exemption under Section 501(c)(7) of the Internal Revenue Code.

Facts:

ORG was recognized to be exempt from Federal income tax as an organization described in IRC Section 501(c)(7). The organization is part of a group ruling; the group ruling number is #. The organization's status is now listed as no longer belonging to a group ruling.

On March 9, 20XX, agent called the phone number on the Form 990 and spoke to the preparer of the Form 990 of ORG. The phone number on the Form 990 was for the preparer of the Form 990. Agent spoke to the preparer who said the organization is no longer active and there are no officers of the organization. The person further stated all records were sent back to the organization's national parent (CO-1) located at Address, City, State. The person said they no longer handle any of the bookkeeping or financial affairs for the organization. The last Form 990 filed by the organization was for the tax period June 30, 20XX.

The preparer gave the name and phone number to the agent of the Executive Director of the parent organization who used to be the secretary for ORG. The agent contacted the national organization and the Executive Director stated they did not fully terminate the organization because they may reactivate the sorority sometime in the future. Agent stated he will be sending an information document request (IDR) to the organization for records needed to perform the audit. The Executive Director stated all records are in storage or were destroyed. She further stated they have a policy to keep records for only seven (7) years. The Executive Director said she would try to locate the records and get back to the agent. The agent never received a return call from the tax payer.

ORG has failed to respond to the Internal Revenue Service for correspondence requesting the exempt organization to provide books and records for the tax period ending June 30, 20XX. Written correspondence was sent to the exempt organization on June 1, 20XX and certified correspondence was sent on June 28, 20XX. The certified correspondence was returned to the Internal Revenue Service as unclaimed. The agent also made phone calls to the organization on May 18, 20XX, May 23, 20XX, May 25, 20XX, June 1, 20XX and July 17, 20XX. Agent had to leave a message because the Executive Director was not available. No calls were returned to the Internal Revenue Service by the organization.

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The organization had no exempt activities on the filed Form 990. The only revenue on the Form 990 was \$ for investment income and \$ for the sorority subletting their house to another sorority. Hundred percent (%) of this revenue was reported on the Form 990-T as unrelated business income. The Form 990-T showed no taxable income because of a NOL carried forward from prior years.

An attachment to the Form 990-T states:

“The ORG at CO-2 was closed by the National Sorority in June 20XX. The organization was pursuing reactivating the sorority. However, this does not look feasible so the current plan is for the house to be sold (it is owned by the National). The house is currently being sublet to another sorority at CO-2. Although the organization does not meet the gross receipts test for the current tax year we believe based on the facts and circumstances of them winding down their activities they should be able to continue their status as a tax exempt organization during the transition period.”

Law:

IRC § 501(c)(7) refers to clubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder.

Treasury Regulations (Treas. Reg.) 20XXFED ¶22,616, §1.501(c)(7)-1., Social clubs -
(a) The exemption provided by section 501(a) for organizations described in section 501(c)(7) applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, but does not apply to any club if any part of its net earnings inures to the benefit of any private shareholder. In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments. However, a club otherwise entitled to exemption will not be disqualified because it raises revenue from members through the use of club facilities or in connection with club activities.

(b) A club which engages in business, such as making its social and recreational facilities available to the general public or by selling real estate, timber, or other products, is not organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, and is not exempt under section 501(a). Solicitation by advertisement or otherwise for public patronage of its facilities is prima facie evidence that the club is engaging in business and is not being operated exclusively for pleasure, recreation, or social purposes. However, an incidental sale of property will not deprive a club of its exemption. [Reg. §1.501(c)(7)-1.]

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IRC § 6001 provides that every person liable for any tax imposed by the IRC, or for the collection thereof, shall keep adequate records as the Secretary of the treasury or his delegate may from time to time prescribe.

IRC § 6033(a)(1) provides, except as provided in IRC § 6033(a)(2), every organization exempt from tax under section 509(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purpose of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may time to time prescribe.

Treas. Reg. § 1.6001-1(a) in conjunction with Treas. Reg. § 1.6001-1(c) provides that every organization exempt from tax under IRC § 509(a) and subject to the tax imposed by IRC § 511 on its unrelated business income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by IRC § 6033.

Treas. Reg. § 1.6001-1(e) states that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

Treas. Reg. § 1.6033-1(h)(2) provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following) chapter 1 of the Code and IRC § 6033.

Revenue Ruling 59-95, 1959-1 C.B. 627, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of IRC § 6033 and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

In accordance with the above cited provisions of the Code and regulations under IRC §§ 6001 and 6003, organizations recognized as exempt from federal income tax must meet certain

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reporting requirements. These requirements relate to the filing of a complete and accurate annual information return (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

Taxpayer's position:

The organization stated they did not completely terminate the organization because they may reactivate the sorority sometime in the future. The organization failed to respond to several phone calls and written correspondence from the Internal Revenue Service.

Government's Position:

In accordance with the above cited provisions of the Code and regulations under IRC §§ 6001 and 6003, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information return (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

The tax payer failed to provide books and records to substantiate the expenses and revenue that was reported on the Form 990 and the Form 990-T.

In addition the organization is not operating as a social club as described in IRC 501(c)(7). The organization sole purpose is to collect income from subleasing the sorority house, and earning interest income. These types of income are from non-member activities and considered to be unrelated business income. Section 501(c)(7)-1(b) states, a club which engages in business, such as making its social and recreational facilities available to the general public is not organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, and is not exempt under Section 501(a).

Conclusion:

It is the opinion of the Internal Revenue Service that the organization failed to meet the reporting requirements under IRC §§ 6001 and 6033, and failed to operate as a social club within the meaning of IRC § 501(c)(7). Accordingly, the organization's exempt status is revoked effective July 1, 20XX.

Form 1120 returns should be filed for the tax periods ending on or after June 30, 20XX.